

Steve Sisolak
Governor



Richard Whitley, MS
Director

**DEPARTMENT OF
HEALTH AND HUMAN SERVICES**
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH
Helping people. It's who we are and what we do.



Lisa Sherych
Administrator

Ihsan Azzam,
Ph.D., M.D.
Chief Medical Officer

DIVISION OF PUBLIC & BEHAVIORAL HEALTH
BUREAU OF HEALTH CARE QUALITY AND COMPLIANCE

LCB File No. R037-22

Informational Statement per NRS 233B.066

1. A clear and concise explanation of the need for the adopted regulation;

The proposed changes revise Chapter 439 of the Nevada Administrative Code (NAC) (LCB File No. R037-22) and are being proposed in accordance with the following authority: §§ 1-14 and 16-40, NRS 4.373, 5.055 and 439.200; § 15, NRS 4.373, 5.055, 439.150 and 439.200. These changes are needed as statutes have provisions for a justice of the peace or municipal judge to order customers of prostitutes convicted of a misdemeanor that constitutes solicitation for prostitution to participate in a program for the treatment of persons who solicit prostitution which is certified by the Division of Public and Behavioral Health. As no such certification currently exists, the proposed regulations establish certification and regulation requirements for programs of treatment for persons who solicit prostitution.

2. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary;

The public workshop notice, proposed regulations and small business impact questionnaire were posted in all the locations listed on the notice of public workshop, including on the Division of Public and Behavioral Health's website and the Nevada Legislature's Administrative Regulation Notices, Meetings and Workshops web page.

A public workshop was held on July 20, 2022. There was one person that testified in support of the proposed regulations, and no one testified in opposition of the proposed regulations.

A public hearing was held on December 2, 2022. Ninety-one (91) individuals attended the public hearing, either virtually or in person. As there were several agenda items, not all attendees may have been in attendance for the hearing on these proposed regulations. No one testified in support or in opposition to the proposed regulations. No one submitted written statements to be considered at the public hearing regarding the proposed regulations.

Any other persons interested in obtaining a copy of the summary may e-mail, call, or mail in a request to Leticia Metherell, RN, CPM, HPM III at the Division of Public and Behavioral Health at:

Division of Public and Behavioral Health
Bureau of Health Care Quality and Compliance
727 Fairview Drive, Suite E

Carson City, NV 89701
Leticia Metherell
Phone: 775-684-1045
Email: lmetherell@health.nv.gov

3. A statement indicating the number of persons who attended each hearing, testified at each hearing, and submitted written statements regarding the proposed regulation. This statement should include for each person identified pursuant to this section that testified and/or provided written statements at each hearing regarding the proposed regulation, the following information, if provided to the agency conducting the hearing:

- (a) Name
- (b) Telephone Number
- (c) Business Address
- (d) Business telephone number
- (e) Electronic mail address; and
- (f) Name of entity or organization represented

Public Workshop - July 20, 2022

Four individuals attended the public workshop excluding Division of Public and Behavioral Health staff and the Division's deputy attorney general.

Two individuals testified at the hearing. One person noted he was there to listen to help him make a determination if he wanted to apply as a program to treat offenders that solicit prostitution. Another individual testified in support of the proposed regulations. No one testified in opposition to the proposed regulations. No one submitted written testimony.

The two individuals that testified during the public workshop included:

- 1) Julio Landero with ABC Therapy
730 No. Eastern Ave, #130
Las Vegas, NV 89101
Business Phone: 702-598-2020
- 2) Linda Anderson with the Nevada Public Health Foundation
3476 Executive Pointe Way, Suite 10, Carson City NV 89706 (business physical location)
Office phone: 775-884-0392
Email: lindaa@nphf.org

Public Hearing – December 2, 2022

A public hearing was held on December 2, 2022. Ninety-one (91) individuals attended the public hearing, either virtually or in person. As there were several agenda items, not all attendees may have been in attendance for the hearing on these proposed regulations.

No one testified in support or in opposition to the proposed regulations. No one submitted written statements to be considered at the public hearing regarding the proposed regulations.

4. A description of how comment was solicited (i.e., notices) from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Pursuant to NRS 233B.0608 (2)(a), the Division of Public and Behavioral Health (DPBH) has requested input from small businesses that may be affected by the proposed regulations. As this is a new treatment program type there are currently no businesses certified as a program for the treatment of persons who solicit prostitution who would be directly impacted by these proposed regulations; therefore, the proposed regulations were sent to certified domestic violence treatment program providers as this may be a business type that would be interested in opening such a business. In addition, the request for input from small businesses was provided to additional individuals in which contact information was provided to the Division who may have an interest in this type of business.

Notice was sent to all certified domestic violence treatment program providers, certified at the time of the notice distribution, and individuals for which contact information was provided that may have an interest in programs for the treatment of persons who solicit prostitution by January 24, 2020, requesting that all interested individuals complete the small business impact questionnaire. An email notice with a link to the small business impact questionnaire and proposed regulations was provided to those with an email address. The proposed regulations were also posted on DPBH’s website.

The questions on the questionnaire were:

- 1) How many employees are currently employed by your business?
- 2) Will a specific regulation have an adverse economic effect upon your business?
- 3) Will the regulation(s) have any beneficial effect upon your business?
- 4) Do you anticipate any indirect adverse effects upon your business?
- 5) Do you anticipate any indirect beneficial effects upon your business?

Summary of Response

(1 response was received out of 32 small business impact questionnaires distributed)

Will a specific regulation have an adverse economic effect upon your business?	Will the regulation (s) have any beneficial effect upon your business?	Do you anticipate any indirect adverse effects upon your business?	Do you anticipate any indirect beneficial effects upon your business?
Yes- 1 Comments: None	Yes - 1 Comments: None	Yes - 1 Comments: None	Yes - 1 Comments: None

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Two individuals testified at the hearing. One person noted he was there to listen to help him make a determination if he wanted to apply as a program to treat offenders that solicit prostitution. Another individual testified in support of the proposed regulations. No one testified in opposition to the proposed regulations. No one submitted written testimony.

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727 Fairview Drive, Suite E
Carson City, NV 89701
Leticia Metherell
Phone: 775-684-1045
Email: lmetherell@health.nv.gov

5. If, after consideration of public comment, the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change. The statement should also explain the reasons for making any changes to the regulation as proposed.

The proposed regulations were modified to remove the requirement that an organization that operates a program shall ensure that the program accept up to 5 percent of indigent offenders. The reasoning is that these individuals had funds to pay for illegal prostitution and now would be responsible for paying the fee for attending a program. This may also act as an additional deterrent to reoffending. This change may also help encourage the opening of such programs because the program would not be required to provide services without compensation for a percentage of their clients.

6. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and in each case must include:

- (a) Both adverse and beneficial effects; and
- (b) Both immediate and long-term effects.

Anticipated effects of Chapter 439 of the Nevada Administrative Code (LCB File No. R037-22) on the businesses which it regulates:

- A. *Adverse effects*: The associated certification fees may cause a negative financial impact.
- B. *Beneficial*: This new certification type will open a new business opportunity to those interested in operating a program of treatment for persons who solicit prostitution. Indirect beneficial effects include a new business opportunity that may lead to new or additional income for an individual operating this new business type.
- C. *Immediate*: There would be an immediate certification cost to any small business wanting to operate a program of treatment for persons who solicit prostitution which accepts clients in which a justice of the peace orders an individual to actively participate in a program for the treatment of persons who solicit prostitution pursuant to NRS 4.373, or a municipal judge who issues such an order pursuant to NRS 5.055.
- D. *Long-term*: Long-term financial beneficial effects are an additional business opportunity for small businesses that are interested in operating a program for the treatment of persons who solicit prostitution, and any associated revenue. The long-term financial adverse effects include pay all applicable certification fees, including on-going renewal fees every two years.

Anticipated effects on the public:

- A. *Adverse*: There are no anticipated adverse financial effects on the public, except for individuals which are ordered to attend a program for the treatment of persons who solicit prostitution. In this case, the cost would be dependent on the fees charged to attend a program for the treatment of persons who solicit prostitution, and any associated travel costs.
- B. *Beneficial*: There are no anticipated direct beneficial financial effects on the public.
- C. *Immediate*: There are no known immediate beneficial or adverse financial effects on the public, except perhaps an immediate adverse financial effect on members of the public who are ordered to attend a program for the treatment of persons who solicit prostitution, as indicated in the above Adverse section.
- D. *Long-term*: There are no known long-term financial beneficial or adverse financial effects on the public.

7. The estimated cost to the agency for enforcement of the proposed regulation.

The estimated cost to the agency for the enforcement of the proposed regulations is the amount of fees collected pursuant to Section 15 of the proposed regulations. This will depend on the number and type of applications received, for example, if one initial application is received the \$897 would cover two years of licensing and regulating this facility, with an additional \$449 every two years to maintain these services, for a total cost of \$1,346 to regulate and license one program over a four-year period.

8. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, name the regulating federal agency.

The proposed regulations do not overlap or duplicate any other Nevada state regulations or federal regulations.

9. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions; and

There are no known federal regulations that regulate the same activity.

10. If the regulation establishes a new fee or increases an existing fee, a statement indicating the total annual amount the agency expects to collect and the manner in which the money will be used.

The total annual amount DPBH expects to collect is unknown because it is based on the number and type of applications received. For example, if no applications were received, DPBH would collect nothing. If one initial application was received, DPBH would collect \$897 but if 10 initial applications were received, it would receive \$8,970. It would also depend on the length of time each program remains certified, because the longer a program remains certified, the more fees DPBH would collect. DPBH will use the money to license and regulate these programs.